

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-10 are presently active; Claims 1, 3, 5, and 8 having been amended by the present amendment.

In the outstanding Office Action, Claims 1-2 were rejected under 35 U.S.C. § 102(e) as being anticipated by Schwinghammer et al (U.S. Pat. No. 5,953,661). Claims 3-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Schwinghammer et al in view of Tanoue (U.S. Pat. No. 6,041,238).

Firstly, this amendment is submitted in accordance with 37 C.F.R. §1.116 which after final rejection permits entering of amendments canceling claims, complying with any requirement of form expressly set forth in a previous Office Action, or presenting rejected claims in better form for consideration on appeal. The present amendment clarifies the preambles of the independent claims (e.g., designating the claims as method or device claims and clarifying that the radio channel control device is provided separately from base stations and mobile stations and connected with the base stations), thereby presenting rejected claims in better form for consideration on appeal. It is therefore respectfully requested that the present amendment be entered under 37 C.F.R. §1.116.

The final Office Action rejects Claims 1 and 2 as being anticipated by Schwinghammer, and rejects Claims 3-10 as being unpatentable over Schwinghammer in view of Tanoue. However, Applicants respectfully submit that the reasons for these rejections are in error and request reconsideration in view of the following arguments.

First of all, Claim 1 is specifically directed to the radio channel assignment judgement method at a radio channel control device which is provided separately from base stations and

mobile stations and connected with the base station, as clarified in the present amendment and as supported by Fig. 1 to Fig. 3 of the specification.

In this regard, Schwinghammer only discloses the operation of the mobile station to measure the received signal strength and CIR and report the measurement result to the base station. Claim 1 is not directed to such an operation of a mobile station. In fact, the description at col. 2, lines 10-15 and col. 4, lines 20-30 of Schwinghammer, relied on the in final Office Action, only relates to an operation of a mobile station, and fails to disclose any teaching relevant for a radio channel control device.

More specifically, regarding independent Claim 1, the Office Action asserts that Schwinghammer discloses the claimed storing and managing step in col. 8, line 63 to col. 9, line 5.¹ However, this part of Schwinghammer only describes the measurement of the received signal strength and CIR at the mobile station, and describes the subsequent reporting of the measurement results from the mobile station to the base station. This part of Schwinghammer provides no teaching regarding a radio channel control device for judging whether an assignment of a frequency/radio channel is possible or not according to the receiving level at the mobile station. Moreover, this part of Schwinghammer fails to disclose any table of the optimal CIR, and fails to disclose any teaching for storing and managing an optimal CIR to be used as threshold in judging whether the assignment of the frequency/radio channel is possible or not, in correspondence to each value that can be taken by the receiving level at the mobile station, in a table in advance, at the radio channel control device, as recited in Claim 1.

The Office Action further asserts that Schwinghammer discloses the claimed adaptively selecting step (including the step of judging whether the assignment of the frequency/radio channel is possible or not) at col. 8, line 63 to col. 9, line 5, i.e., the same

¹ Office Action, page 2, lines 23-26.

portion as already discussed above.² However, this part of Schwinghammer only describes the measurement of the received signal strength and CIR at the mobile station, and the subsequent reporting of the measurement results from the mobile station to the base station. This part of Schwinghammer provides no teaching regarding the radio channel control device for judging whether an assignment of a frequency/radio channel is possible or not according to the receiving level at the mobile station. Moreover, this part of Schwinghammer fails to disclose any table of the optimal CIR, and fails to disclose any teaching for adaptively selecting the optimal CIR from the table, and judging whether the assignment of the frequency/radio channel is possible or not according to the selected CIR, at the radio channel control device, as defined in Claim 1.

Thus, Applicants respectfully submit that Schwinghammer does not anticipate Claim 1.

Regarding independent Claim 3 which is a device claim corresponding to Claim 1, the Office Action correctly states that Schwinghammer fails to disclose a table and a judgement unit, which correspond to the storing and managing step and the adaptively selecting step discussed above.³

But then, the Office Action asserts that Tanoue discloses these features as elements 104 and 105.⁴ However, element 104 of Tanoue is a priority table which stores a priority value for each channel (see col. 3, lines 3-6 of Tanoue), which is distinctly different from the claimed table for storing and managing an optimal CIR to be used as a threshold in judging whether the assignment of the frequency/radio channel is possible or not, in correspondence to each value that can be taken by the receiving level at the mobile station, as defined in Claim 3. Moreover, element 105 of Tanoue is an interference detection criteria table that contains the relationship between received signal levels and interference detection criteria so as to search for an

² Office Action, page 3, lines 4-8.

³ Office Action, page 4, lines 21-25.

⁴ Office Action, page 4, penultimate line, to page 5, line 7.

interference detection criterion corresponding to a received signal level (see col. 3, lines 7-11), which is only a table and which is distinctly different from the claimed judgement unit for adaptively selecting the optimal CIR from the table, and judging whether the assignment of the frequency/radio channel is possible or not according to the selected CIR, as defined in Claim 3.

Thus, Applicants respectfully submit that a combination of Schwinghammer and Tanoue does not make obvious Claim 3.

Regarding independent Claim 5, the Office Action asserts that Schwinghammer discloses the claimed judging step in col. 4, lines 23-34.⁵ However, this part of Schwinghammer only describes the measurement of the received signal strength and CIR at the mobile station, and the subsequent reporting of the measurement results from the mobile station to the base station in order to indicate an unstable or undesirable situation.

This part of Schwinghammer provides no teaching for any judgement to be made at the radio channel control device, and fails to disclose any teaching for judging whether there is another mobile station that is carrying out communication by a radio channel to be assigned to one mobile station or not, at the radio channel control device, as defined in Claim 5. Moreover, this part of Schwinghammer also provides no teaching for any comparison operation at the radio channel control device, and fails to disclose any teaching for selecting an unused assignment candidate radio channel while comparing a control frequency receiving level in a radio zone used for communication at another mobile station and the receiving level of the level measurement channel at one mobile station, and judging an assignment of a radio channel to one mobile station according to a comparison result, as defined in Claim 5.

Thus, Applicants respectfully submit that a combination of Schwinghammer and Tanoue does not make obvious Claim 5.

⁵ Office Action, page 5, last line, to page 6, line 10.

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In conclusion, based on the above arguments against anticipation and obviousness,
Claims 1-10 are believed to patentably define over the prior art of record.

Consequently, in view of the present amendment and in light of the above discussions,
the outstanding grounds for rejection are believed to have been overcome. The application as
amended herewith is believed to be in condition for formal allowance. An early and favorable
action to that effect is respectfully requested.

Respectfully submitted,

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